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FILED IN THE
 UNITED STATES DISTRICT COURT
 DISTRICT OF HAWAII

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 WALTER A. Y. H. CHINN, CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CRIM. NO. 03-0127SOM-01,-02
)	
Plaintiff,)	THIRD SUPERSEDING INDICTMENT
)	[21 U.S.C. 846, 844(a) and
VS.)	841(a)(1); 18 U.S.C. 922(g)(3);
)	18 U.S.C. 924(c)(1)(B)(i) and
ERNEST M. ESPARZA (01))	924(c)(1)(A)(i); 18 U.S.C.
CATARINO ZAVALA OJEDA, (02))	1546(a); 8 U.S.C. 1326(a)
also known as "Jose)	
Angel Avitia Quinones")	
and "Manuel Ojeda)	
Amarillas",)	
)	
Defendants.)	
)	

THIRD SUPERSEDING INDICTMENT

Count 1:

The Grand Jury charges that:

From a time unknown to the grand jury up through and including on or about March 8, 2003 in the District of Hawaii and elsewhere, defendants:

ERNEST M. ESPARZA (hereinafter "Esparza"),
 CATARINO ZAVALA OJEDA, also known as "Jose Angel Avitia Quinones" and "Manuel Ojeda Amarillas" (hereinafter

"Ojeda"),

and Stacey Kuamoo, also known as Stacey Bohol, the latter person not being charged as a defendant herein, and others known and unknown to the grand jury knowingly and intentionally conspired to distribute and to possess with intent to distribute fifty (50) grams or more of methamphetamine, its salts, isomers, and salts of its isomers, a Schedule II controlled substance,

A violation of Title 21, United States Code, Section 841(a)(1).

Overt Acts:

In furtherance of this conspiracy and in order to attain the objects thereof, the following overt acts, among others, were committed in the District of Hawaii and elsewhere:

1. On or about March 7, 2003, at his residence located at 194 Kuleana Loop, Hilo, HI, Esparza accepted delivery of the following U.S. Postal Service Express Mail parcel:

One (1) U.S. Postal Service Express Mail parcel, Label #ER039506040US, addressed to "Ernesto Esparza, 194 Kuleana Lp., Hilo, HI 96720", with the sender being "Eugenio Esparza, 9415 Catawba Ave., Fontana, CA 92336" [hereinafter referred-to as "subject parcel"].

2. On or about March 7, 2003, Ojeda drove away from 194 Kuleana Loop with the subject parcel.

3. On or about March 7, 2003, Ojeda possessed in the vehicle he was then operating a Ruger Model 85 semi-automatic pistol, 9mm Luger caliber, serial #302-16501, and ammunition

therefor.

4. On or about March 7, 2003, Ojeda possessed a passport and visa, both issued in the name of Jose Angel Avitia Quinones.

5. On or about March 7, 2003, Esparza possessed in the vehicle he was then operating a Makarov semi-automatic pistol, caliber 9 x 18 mm Makarov, serial #A 81 9695, and ammunition therefor.

6. On or about March 8, 2003 and at earlier times during the period of this conspiracy, at his residence located at 194 Kuleana Loop, Hilo, HI, Esparza possessed a Model AKM-47S, semi-automatic assault rifle, 7.62 x 39 mm caliber, serial #M8501010, and ammunition therefor.

7. On or about March 8, 2003 and at earlier times during the period of this conspiracy, at his residence located at 194 Kuleana Loop, Hilo, HI, Ojeda possessed a Model AKM-47S, semi-automatic assault rifle, 7.62 x 39 mm caliber, serial #M8501010, and ammunition therefor.

8. On or about March 8, 2003 and at earlier times during the period of this conspiracy, at his residence located at 194 Kuleana Loop, Hilo, HI, Esparza possessed approximately \$25,030 in U.S. currency concealed in a metal can with a soldered seam.

9. On or about March 8, 2003 and at earlier times during the period of this conspiracy, at his residence located at 194 Kuleana Loop, Hilo, HI, Ojeda possessed approximately \$25,030 in

U.S. currency concealed in a metal can with a soldered seam.

10. On or about March 8, 2003 and at earlier times during the period of this conspiracy, at his residence located at 194 Kuleana Loop, Hilo, HI, Esparza possessed two metal cans which had been cut in half.

11. On or about March 8, 2003 and at earlier times during the period of this conspiracy, at his residence located at 194 Kuleana Loop, Hilo, HI, Ojeda possessed two metal cans which had been cut in half.

12. On or about March 8, 2003 and at earlier times during the period of this conspiracy, at his residence located at 194 Kuleana Loop, Hilo, HI, Esparza possessed a soldering iron and solder.

13. On or about March 8, 2003 and at earlier times during the period of this conspiracy, at his residence located at 194 Kuleana Loop, Hilo, HI, Ojeda possessed a soldering iron and solder.

14. On or about March 8, 2003 and at earlier times during the period of this conspiracy, at his residence located at 194 Kuleana Loop, Hilo, HI, Esparza possessed approximately \$11,000 in U.S. currency.

15. On or about March 8, 2003 and at earlier times during the period of this conspiracy, at his residence located at 194 Kuleana Loop, Hilo, HI, Ojeda possessed approximately \$11,000 in

U.S. currency.

16. On or about March 8, 2003 and at earlier times during the period of this conspiracy, at his residence located at 194 Kuleana Loop, Hilo, HI, Ojeda possessed a magazine for a Ruger Model 85 semi-automatic pistol.

17. On or about March 8, 2003 and at earlier times during the period of this conspiracy, at his residence located at 194 Kuleana Loop, Hilo, HI, Esparza possessed ammunition in 9 x 18 Makarov caliber.

All in violation of Title 21, United States Code, Sections 846, 841(a)(1), and 841(b)(1)(A).

Count 2:

The Grand Jury further charges that:

On or about March 7, 2003 in the District of Hawaii, defendants:

**ERNEST M. ESPARZA and
CATARINO ZAVALA OJEDA, also known as "Jose Angel Avitia
Quinones" and "Manuel Ojeda Amarillas",**

knowingly and intentionally attempted to possess with intent to distribute fifty (50) grams or more of methamphetamine, its salts, isomers, and salts of its isomers, a Schedule II controlled substance,

In violation of Title 21, United States Code, Sections 846, 841(a)(1), and 841(b)(1)(A), and Title 18, United States Code,

Section 2.

Count 3:

The Grand Jury further charges that:

On or about March 7, 2003 in the District of Hawaii,
defendant:

ERNEST M. ESPARZA,

then being an unlawful user of controlled substances, to wit:
cocaine, a Schedule II narcotic controlled substance, did possess
in and affecting commerce firearms, to wit:

- (1) One (1) Makarov semi-automatic pistol, caliber 9 x 18 mm
Makarov, serial #A 81 9695, and ammunition therefor, and
- (2) One (1) Model AKM-47S, semi-automatic assault rifle,
7.62 x 39 mm caliber, serial #M8501010, and ammunition
therefor,

In violation of Title 18, United States Code, Sections
922(g)(3) and 924(a)(2).

Count 4:

The Grand Jury further charges that:

On or about March 7, 2003 in the District of Hawaii,
defendant:

CATARINO ZAVALA OJEDA, also known as "Jose Angel Avitia
Quinones" and "Manuel Ojeda Amarillas",

then being an unlawful user of controlled substances, to wit:

methamphetamine, a Schedule II controlled substance, did possess in and affecting commerce firearms, to wit:

- (1) One (1) Ruger Model 85 semi-automatic pistol, 9mm Luger caliber, serial #302-16501, and ammunition therefor, and
- (2) One (1) Model AKM-47S, semi-automatic assault rifle, 7.62 x 39 mm caliber, serial #M8501010, and ammunition therefor,

In violation of Title 18, United States Code, Sections 922(g)(3) and 924(a)(2).

Count 5:

On or about March 7, 2003 in the District of Hawaii, defendant:

ERNEST M. ESPARZA

knowingly and intentionally possessed a quantity of cocaine, a Schedule II narcotic controlled substance,

In violation of Title 21, United States Code, Section 844(a).

Count 6:

On or about March 7, 2003 in the District of Hawaii, defendant:

CATARINO ZAVALA OJEDA, also known as "Jose Angel Avitia Quinones" and "Manuel Ojeda Amarillas",

knowingly and intentionally possessed a quantity of

methamphetamine, a Schedule II controlled substance,

In violation of Title 21, United States Code, Section 844 (a) .

Count 7:

The Grand Jury further charges that:

On or about March 7, 2003 in the District of Hawaii, defendants:

ERNEST M. ESPARZA and
CATARINO ZAVALA OJEDA, also known as "Jose Angel Avitia Quinones" and "Manuel Ojeda Amarillas",

knowingly and intentionally carried a firearm, to wit: one (1) Ruger Model 85 semi-automatic pistol, 9mm Luger caliber, serial #302-16501, during and in relation to a drug trafficking crime as charged in Counts 1 and 2 of this Indictment, which are realleged and incorporated herein by reference,

All in violation of Title 18, United States Code, Section 924 (c) (1) (A) (i) .

Count 8:

The Grand Jury further charges that:

On or about March 8, 2003 in the District of Hawaii, defendants:

ERNEST M. ESPARZA and
CATARINO ZAVALA OJEDA, also known as "Jose Angel Avitia Quinones" and "Manuel Ojeda Amarillas",

knowingly and intentionally possessed a firearm, to wit: one (1) Model AKM-47S, semi-automatic assault rifle, 7.62 x 39 mm caliber, serial #M8501010, in furtherance of a drug trafficking crime as charged in Counts 1 and 2 of this Indictment, which are realleged and incorporated herein by reference,

All in violation of Title 18, United States Code, Section 924 (c) (1) (B) (i) .

Count 9:

The Grand Jury further charges that:

On or about March 7, 2003 in the District of Hawaii, defendants:

ERNEST M. ESPARZA and
CATARINO ZAVALA OJEDA, also known as "Jose Angel Avitia Quinones" and "Manuel Ojeda Amarillas",

knowingly and intentionally possessed a firearm, to wit: one (1) Makarov semi-automatic pistol, caliber 9 x 18 mm Makarov, serial #A 81 9695, in furtherance of a drug trafficking crime as charged in Counts 1 and 2 of this Indictment, which are realleged and incorporated herein by reference,

All in violation of Title 18, United States Code, Section 924 (c) (1) (A) (i) .

Count 10:

The Grand Jury further charges that:

On or about March 7, 2003 in the District of Hawaii, defendant:

CATARINO ZAVALA OJEDA, also known as "Jose Angel Avitia Quinones" and "Manuel Ojeda Amarillas",

knowingly possessed a document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States, that is, a Mexican passport issued in the name of Jose Angel Avitia Quinones, which the defendant knew to be altered and counterfeit, to facilitate the drug trafficking crime as charged in Counts 1 and 2 of this Indictment, which are realleged and incorporated herein by reference,

All in violation of Title 18, United States Code, Section 1546 (a) .

Count 11:

The Grand Jury further charges that:

On or about March 7, 2003 in the District of Hawaii, defendant:

CATARINO ZAVALA OJEDA, also known as "Jose Angel Avitia Quinones" and "Manuel Ojeda Amarillas",

knowingly possessed a nonimmigrant visa, that is, a U.S. Machine Readable Visa issued in the name of Jose Angel Avitia Quinones, which the defendant knew to be altered, to facilitate the drug trafficking crime as charged in Counts 1 and 2 of this

Indictment, which are realleged and incorporated herein by reference,

All in violation of Title 18, United States Code, Section 1546(a) .

Count 12:

The Grand Jury further charges that:

On or about March 7, 2003 in the District of Hawaii, defendant:

CATARINO ZAVALA OJEDA, also known as "Jose Angel Avitia Quinones" and "Manuel Ojeda Amarillas",

an alien who was excluded, deported, and removed from the United States, was thereafter found in the United States, having knowingly and unlawfully entered the United States without first having obtained the consent of the Attorney General of the United States or his successor, the Secretary for Homeland Security (Title 6, United States Code, Sections 202(3), (4), and 557) for re-application by the Defendant for admission into the United States.

In violation of Title 8, United States Code, Sections

1326 (a) and 1326 (b) (4) .

DATED: Honolulu, Hawaii, December 17, 2003.

A TRUE BILL.

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GRAND JURY FOREPERSON

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USA v. Esparza and Ojeda, USDC-Hawaii, Third Superseding
Indictment.